

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ELECTRONICALLY FILED
DOC#
DATE FILED: 5/19/08

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JOSEPH BURNS,

Petitioner,

-against-

U.S.A.,

Respondent.
-----:X

:
: 07 Civ. 7870 (RJH) (AJP)

: ORDER

ANDREW J. PECK, United States Magistrate Judge:

Upon the Petition of Joseph Burns, praying that a writ of habeas corpus be issued to respondent, requiring said respondent to appear and answer the allegations of the petitioner, and the Court in accordance with Rule 4 of the Rules Governing Sec. 2255 cases in the United States District Court, 28 U.S.C. foll. Sec. 2255, having reviewed the Petition and having determined that the Petition should not be summarily dismissed pursuant to Rule 4, it is hereby

ORDERED, that the Clerk of the Court serve, by certified mail, a copy of this Order, and the underlying Petition, on the United States Attorney's Office (S.D.N.Y.), and it is further

ORDERED, that respondent shall file a complete and entire answer to the Petition by June 13, 2008, and that any request for an extension should be made to the undersigned, and it is further

ORDERED, that respondent shall file with its answer(s) all relevant parts of the federal criminal court record (04 Crim. 0142),^{1/} and it is further

ORDERED that respondent shall deliver courtesy copies of all such papers to my chambers (500 Pearl Street, Room 1370), and it is further

ORDERED that petitioner's reply papers are due June 27, 2008, and it is further

ORDERED that the parties follow the "Individual Practices of Magistrate Judge Andrew J. Peck," a copy of which is enclosed.

* * *

The parties shall advise the Court as to whether they jointly consent to decision on petitioner's habeas corpus petition by a United States Magistrate Judge (that is, the undersigned), pursuant to the enclosed forms and explanations.

Each party shall either: (1) sign the consent form to indicate consent and return it to the Court (with a copy to the other side) or (2) inform the Court by letter that the party does not consent.

This Order is not meant to in any way interfere with the parties' absolute right to decision by a United States District Judge, but is merely an attempt at preserving scarce judicial resources, particularly since the matter has been referred to me for a Report and

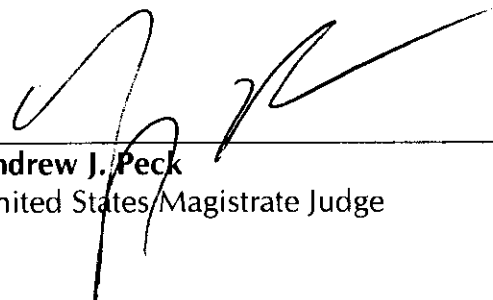
^{1/} It is not clear to the Court at this time whether it will be necessary for the parties to obtain an affidavit from Burns' original attorney (or any of the A.U.S.A.s involved in the proffer sessions), nor whether a hearing will be necessary. If any of this is deemed necessary by either side, they shall obtain the necessary affidavits, and if a hearing is necessary, arrange with my secretary for a date for the hearing.

Recommendation on this habeas petition, and reminding the parties of their option pursuant to 28 U.S.C. § 636(c).

The parties are to notify the Court pursuant to the above procedures by no later than June 13, 2008.

SO ORDERED.

DATED: New York, New York
May 19, 2008



Andrew J. Peck
United States Magistrate Judge

Copies **by fax & ECF** to: James E. Neuman, Esq.
Christine Meding, Esq.
Steven D. Feldman, Esq.
Judge Richard J. Holwell